HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SHRI JUSTICE G.BHAVANI PRASAD

WRIT PETITION No. 11745 of 1991

Between:

Pula Rajamma .. Petitioner

AND

Land Acquisition Officer and Special

Deputy Collector, Land Acquisition

Office, TTD. Tirupathi, Chittoor Dist. ..Respondent.

Counsel for the Petitioners: None

Counsel for the Respondent: Govt. Pleader for Land Acquisition

Dated: March 14, 2006

ORDER:

Per G.S.Singhvi, C.J.

This is a petition for issuance of a writ in the nature of mandamus directing the respondent to make reference to the competent Civil Court under Section 18 of the Land Acquisition Act, 1894 (for short 'the Act').

Although, no one has appeared for the petitioners, we do not consider it proper to dismiss the petition in default or defer its adjudication on merits, because the matter has remained pending for the last almost 15 years.

A perusal of the record shows that the land belonging to the petitioners (Ac.0-56 cents) comprised in Sy.No.669/1 B2 situated at Srinivas Mangapuram, Tirupati was acquired by the respondent for construction of staff quarters etc. By an Award dated January 31, 1990 passed under Section 11 of the Act, the Land Acquisition Collector determined the amount of compensation payable to the petitioner as Rs.2,191/-. She claims to have received compensation under protest and then filed an application dated March 2, 1990 under Section 18 of the Act for making reference to the competent Civil Court. The Land Acquisition Officer-cum-Special Deputy Collector (LA) vide his letter dated October 6, 1990 raised some technical objections and refused to make reference on the premise that the petitioner had received amount of compensation without any protest. The petitioner served notice dated December 4, 1990 and then filed this petition.

It is borne out from the record that the adjudication of the writ petition was deferred in view of the pendency of the reference made in Writ Appeal No. 1752 of 2001 to a larger Bench.

Learned Government Pleader very fairly says that the reference made to the Full Bench has been answered on
September 19, 2003. He also concedes that the petitioner's case is covered by the Judgment of the Full Bench.

We have gone through the Judgment of the Full Bench, the operative part of which reads as under:

> "In the view we have taken, we answer the reference holding that in the absence of any manner of protest having been specified in the Act and the time when protest is to be lodged, act of filing of an application seeking reference to Civil Court within the period of limitation prescribed under Section 18 of the Act will impliedly infer that the claimant/person interested had accepted the amount with protest. Not expressly lodging protest at the time of receiving amount in such circumstance would not amount to waiver of the right to seek reference under Section 18 of the Act."

It is an undisputed position that the petitioner had filed application for reference within the period of limitation, therefore, her case is squarely covered by the answer given by the Full Bench.

Consequently the writ petition is allowed and the respondent is directed to make

reference under Section 18 of the Act.

The needful be done within one month from the date of receipt of a copy of this order.

G.S.SINGHVI, C.J.

March 14, 2006

G.BHAVANI PRASAD, J.

Note:

The Registry is directed to inform the petitioner that her writ petition has been allowed vide order of today and she may pursue her cause before the respondent and thereafter before the competent Civil Court.

/B.O/

GRR